

**MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING and RULE HEARING – February 20, 2018
1205 Camino Carlos Rey, Santa Fe, NM 87507**

Members Present

Robert J. Tórréz	Chairman and Historian
Lynne S. Rhys	State Law Librarian
Christine Espinoza	Designee, Secretary of State
Rebecca Abbo	Designee, General Services Department
Bobbi Shearer	Designee, Office of State Auditor
Jeff Pappas	Designee, Department of Cultural Affairs
Joseph Dworak	Designee, Office of the Attorney General
Wayne Johnson	State Auditor

Staff Present

Melissa T. Salazar	State Records Administrator
Georgette L. Chavez	Deputy State Records Administrator
Rick Hendricks	State Historian, Office of State Historian (OSH)
Rob Martinez	Deputy State Historian, OSH
Thomas Shumaker	Grants Administrator, OSH
Peter Chacon	Director, Information Technology Management Division (ITMD)
James Kirby	Information Technology End User Support, ITMD
Robert Wise	IT Network Administrator, ITMD
Leo Lucero	Director, Records Management Division (RMD)
Susan Montoya	Agency Analyst Bureau Chief, RMD
Tanya Vigil	Management Analyst, RMD
Cameron O'Rear	Information Records Clerk, RMD
Crystal Wooldridge	Records Center Manager, RMD
Emmanuel Rodriguez	Records Center Bureau Chief, RMD
Jonathan Roybal	Management Analyst, RMD
Ruben Rivera	Chief Financial Officer, Administrative Services Division (ASD)
Justin Herrera	Financial Specialist, ASD
Andy Mackowski	HR Bureau Chief, ASD
Felicia Lujan	Director, State Archives of New Mexico (SANM)
Gail Packard	Business Operations Specialist, SANM

Public Present

Amy Urias	New Mexico Senate Chief Clerks Office
Andres Santiago	Bernalillo County
Lloyd Leyba	Bernalillo County
Catalina Chavez	Bernalillo County
Paulette L. Romero	Division of Vocational Rehabilitation
Andrew Quintana	Kubiak Melton & Associates

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Robert J. Tórréz
Historian/Chair

Hon. Hector Balderas
Attorney General

Hon. Wayne Johnson
State Auditor

Hon. Maggie Toulouse Oliver
Secretary of State

Veronica Gonzales
Department of Cultural Affairs

Ned Fuller
General Services Department

Stephanie Wilson
Supreme Court Law Librarian

I. OPENING ACTIVITIES

A. Call to Order

Chairman Tórréz called the meeting to order at 10:03 a.m. He asked the commission members to introduce themselves.

B. Approval of Revised Agenda

Chairman Tórréz entertained a **MOTION** to approve the revised agenda. Mr. Pappas **MOVED**, and Ms. Abbo **SECONDED**; the motion **PASSED UNANIMOUSLY**.

C. Approval of Minutes of November 14, 2017, Regular Meeting and Rule Hearing

Chairman Tórréz made two minor corrections. The first correction was on page 8, paragraph 3, line 3, which needed a period after the word “present.” On page 9, line 5 from the bottom, he asked that quotes be placed around the phrase “dismissed attorney legal case fees.” No other corrections were noted.

Chairman Tórréz entertained a **MOTION** to approve the corrected minutes. Ms. Rhys **MOVED**, and Ms. Abbo **SECONDED**; the motion **PASSED UNANIMOUSLY**.

D. Approval of Minutes of February 9, 2018, Special Meeting

Chairman Tórréz stated that Ms. Abbo, Mr. Johnson, Ms. Espinoza, and he were in attendance for this meeting. He explained the special meeting was called to discuss the planned move of the State Personnel Office (SPO) into the building and the affect it would have on the State Records Center and Archives (SRCA). Chairman Tórréz offered that the state records administrator presented facts related to the issue. He stated that the attending commission members toured the building to observe the record storage crisis. Chairman Tórréz recommended that other commissioners take a tour, if they have not already.

Chairman Tórréz entertained a **MOTION** to approve the special meeting minutes. Ms. Espinoza **MOVED**, and Ms. Abbo **SECONDED**; and the motion **PASSED UNANIMOUSLY**.

II. PRESENTATIONS

A. FY17 Audit Report - Andrew Quintana, Kubiak Melton & Associates, LLC

Mr. Quintana passed out an audit summary and went over the fiscal year 2017 financial highlights. Mr. Quintana reported the total net position for the year ending June 30, 2017, was \$454,533, and the net program expenses were \$3,007,246. He stated the commission’s general fund appropriation in FY17 was \$2,476,400. He explained that the commission has three ongoing funds and fund types: the general operating fund, the proprietary fund, and the non-budgeted special gift and donation fund. Mr. Quintana stated that in fiscal year 2006, a Capital Outlay fund was created to record and account for capital appropriations. He reported that in 2017 the commission did not receive any capital outlay funds.

Mr. Quintana reviewed the commission’s 2016 and 2017 net positions, comparing the agency’s assets, liabilities, program revenues, general revenues, and expenses. He noted the state general fund appropriations had decreased significantly from 2016 by almost \$300,000. He reported that program expenses were less in 2017 by \$55,226. Mr. Quintana stated the financial statement opinion was unmodified and clean. He offered it was the highest level of opinion one can receive. Mr. Quintana stated there were no findings in fiscal year 2017. Mr. Quintana expressed his gratitude and commended the staff for providing all the information to conduct the audit. Mr. Quintana then asked if there were any questions.

Dr. Pappas questioned why there was a decline in the assets between 2016 and 2017. Mr. Rivera answered that the numbers come from the asset keeper software that tracks fixed assets and calculates depreciation. He stated there were a lot of aging items whose initial cost was over \$5,000 but whose value is much lower now. Mr. Rivera further explained that computer assets such as hardware and software diminish in value and will continue to go down. He also stated that computer assets now are under \$5,000 so they are not reported. Dr. Pappas then asked Ms. Salazar if the agency conducted regular IT audits to assess condition and shelf life. Ms. Salazar answered that the IT division prepares an annual IT plan which includes a replacement plan that is monitored. She offered that the agency does replace aging computer equipment when necessary. She also stated that aging records center equipment may also be contributing to the decline between 2016 and 2017. Dr. Pappas asked if a special appropriation could be requested next year to replace equipment. Ms. Salazar stated this was something to consider as the operating budget was being cut by \$50,000 and operating expenses were being shifted from the 179 fund to the 371 fund. She stated they would need creative ideas to pay for fixed costs as well as obtain new IT equipment.

Chairman Tórréz stated for the record that State Auditor Wayne Johnson had joined the meeting. He then thanked Mr. Quintana for all of his work on the audit. Ms. Chavez also recognized Mr. Rivera and Mr. Mackowski for all of their work and expertise in arriving at a clean audit. She congratulated and thanked them for a job well done.

B. FY17 Annual Report Presentation

Ms. Chavez presented the FY17 Annual Report, providing a detailed look at the many activities and accomplishments of the agency's programs. She acknowledged and thanked the division directors, Matt Ortiz, Felicia Lujan, Peter Chacon, Rick Hendricks, and Leo Lucero, for their assistance in preparing the informational summaries for each of their respective divisions. She also thanked Dr. Hendricks for providing the caption for the cover page of the annual report and Dr. Shumaker for providing the caption for the Women's Land Army image on page 3. She also thanked Mark Gruber, editor of the *New Mexico Register*, for his hard work in preparing the report for publication. Chairman Tórréz commented on the quality of the report and images. He asked how it was being distributed. Ms. Salazar answered that the annual report is available online on the agency's website. She added that the cost to produce and distribute hard copies was prohibitive. Dr. Pappas asked if the World War I theme was to commemorate the 100 year anniversary. Ms. Salazar confirmed yes and offered that all of the images in the report were related to New Mexicans serving during World War I. She added that the United States had entered the war on April 6, 1917. Chairman Tórréz stated that the Records of the New Mexico Adjutant General were a wonderful resource for genealogists and other researchers. Ms. Salazar thanked Ms. Chavez for all of her work in putting the annual report together.

C. Bernalillo County Records Managers Introduction

Ms. Lujan introduced Bernalillo County records managers Catalina Chavez, Andres Santiago, and Lloyd Leyba. Ms. Lujan stated that the SRCA staff is working closely with Bernalillo County as they plan their move to a new facility. Chairman Tórréz asked where the new county offices would be located. Mr. Leyba answered that the property was downtown in Alvarado Square. He added that the new building is smaller so their focus was to reduce their footprint. They would be doing a full records inventory, dispositioning records, and identifying the official records that would occupy the new storage facility. He stated it was a two-year project and appreciated the state's input. Chairman Tórréz related his recollection of the agency's move from Montezuma to the current location and stated that moving was a massive undertaking.

D. State Records Center and Archives Staff Recognition

Ms. Salazar presented certificates to the following individuals in recognition for their years of service to the state and the agency: Adrian Ortiz, Andy Mackowski, Cameron O’Rear, Crystal Wooldridge, Emmanuel Rodriguez, Felicia Lujan, Gail Packard, Georgette Chavez, Jonathan Roybal, Leo Lucero, Martin Sandoval, Matt Ortiz, Melissa Salazar, Peter Chacon, Rick Hendricks, Rob Martinez, Robert Wise, Ruben Rivera, Susan Montoya, and Tanya Vigil.

She also presented certificates to the following individuals for extraordinary service to the agency: Mr. Rivera, Mr. Wise, James Kirby, Ms. Packard, and Mr. Mackowski. Chairman Tórréz thanked Ms. Salazar and the staff for their hard work and dedication throughout the years.

Chairman Tórréz then called the regular meeting of February 20, 2018, into recess.

III. RULE HEARING

A. Chairman Tórréz called the public hearing to order. He introduced himself as chairman of the commission and the hearing officer. For the record, he noted that the meeting was being held on February 20, 2018, in Santa Fe, New Mexico at the State Records Center and Archives located at 1209 Camino Carlos Rey. He announced the time was approximately 10:41 a.m. The purpose of this hearing is for the commission and the state records administrator to receive public comment on the following rulemaking:

1. Amendment to 1.21.2 NMAC, Retention and Disposition of Public Records (CPR Rule)
2. Amendment to 1.13.10 NMAC, Records Storage and Access (SRA Only)
3. Amendment 1.13.30 NMAC, Disposition of Public Records and Non-Records (CPR & SRA Rule)

According to Chairman Tórréz, the hearing was being conducted pursuant to and in accordance with the provisions of the Public Records Act, Article 3, Sections 14-3-1 through 14-3-24 NMSA 1978. The New Mexico Lobbyist Regulation Act regulates activities before state officials in rule-making proceedings. The Secretary of State’s office can be contacted for information and registration. Public notice of this hearing was advertised in the *New Mexico Register*, on the agency website, on the Sunshine Portal, posted on the public entrances of the Santa Fe and Albuquerque offices, and was sent to Legislative Council Service for distribution. Copies of the proposed rule were available from the state records administrator’s office, were posted on the agency’s website, sent to the Legislative Council Service for distribution, and the Sunshine Portal. He stated that copies of the proposed rulemaking were also available on the table located near the door. Chairman Tórréz reminded everyone in attendance to sign the attendance sheet, which would later be entered as an exhibit as part of the hearing. He then asked if everyone had signed the attendance sheet and requested that the sheet be provided for his review.

Chairman Tórréz announced for the record that the following commissioners or designees were present: Robert J. Tórréz, State Auditor Wayne Johnson, his designee Bobbi Shearer, Secretary of State designee Christina Espinosa, General Services Department designee Rebecca Abbo, Supreme Law Librarian Lynne Rhys, Department of Cultural Affairs designee Jeff Pappas; and Attorney General designee Joseph Dworak.

Chairman Tórréz stated this is a formal proceeding that would be recorded. He directed that anyone interested in a copy must make his or her own arrangements to purchase a copy from the state records administrator's office. In order to ensure that the proceedings are accurately recorded, only one person at a time would be allowed to speak. He instructed that any person recognized to speak regarding the proposed rulemaking would be asked to identify themselves for the record each time they addressed the hearing officer. Secondly, he asked that they speak loudly and clearly so the recorder could pick up their comments.

Chairman Tórréz explained the hearing would be conducted in the following manner: Ms. Salazar would present exhibits, and he would rule on their admissibility. Exhibits admitted into evidence would be available for review by members of the public. Exhibits could not be removed from the room. Chairman Tórréz stated he would open the hearing for comment once all the exhibits were ruled upon. He offered that neither the commission nor state records administrator follow the rules of evidence, but shall, in the interest of efficiency, reserve the right to limit all testimony deemed irrelevant, redundant, or unduly repetitious. He stated that he would make that decision as the hearing officer. He then asked for a show of hands of the number of people who intended to comment on the proposed rules. He then stated that he would permit members of the audience to question any person wishing to comment. Any member of the audience wishing to pose a question would also need to be recognized. Chairman Tórréz directed that each person recognized shall identify him or herself for the record. Comments offered would be considered in preparing the final amendment. He stated they may or may not be incorporated into the final version but would be carefully considered. The volume of comments and the effect of the revisions would dictate the effective date of the amendment.

Chairman Tórréz asked Ms. Salazar if she had any exhibits to introduce into evidence. Ms. Salazar provided the following exhibits:

Exhibit A: Notice of Rule Hearing published on December 26, 2017 in Volume 28, Issue 24 of the New Mexico Register.

Exhibit B: Notice of Rule Hearing as posted on the agency's website

Exhibit C: Notice to Extend Public Comment as posted on the agency's website.

Exhibit D: Revised Agenda as posted on the agency's website and as posted outside rule hearing room.

Exhibit E: E-mail to the Legislative Council Service with Notice of Regular Meeting and Rulemaking

Exhibit F: E-mail to the Department of Information Technology (DoIT) for posting to the Sunshine Portal with Notice of Regular Meeting and Rulemaking

Exhibit G: E-mail to Agency Heads, CRO's, RLO's with Notice of Regular Meeting and Rulemaking

Exhibit H: E-mail to Legislative Council Service, Extending the Comment Period

Exhibit I: E-mail to DoIT for posting to the Sunshine Portal, Extending the Comment Period

Exhibit J: E-mail to Agency Heads, CRO's and RLO's Extending the Comment Period

Exhibit K: 1.21.2 NMAC, Retention and Disposition of Public Records

Exhibit L: 1.21.2 NMAC, Retention and Disposition of Public Records, Comments Received

Exhibit M: 1.13.10 NMAC, Records Storage and Access

Exhibit N: 1.13.30 NMAC, Disposition of Public Records and Non-Records

Chairman Tórréz asked if there were any other exhibits to enter into the record. Ms. Salazar answered there were none. Chairman admitted exhibits A through N into the record. He directed that the proposed rulemaking be introduced into the record and opened the floor for testimony and comment. He stated that members of the audience could question each witness upon being recognized to speak.

Chairman Tórréz called for public comment on the amendments to 1.21.2 NMAC, Retention and Deposition of Public Records. There were no comments. The Chairman moved to the next item.

Chairman Tórréz called for public comment on the amendments to 1.13.10 NMAC, Records Storage and Access. There were no comments. The Chairman moved to the next item.

Chairman Tórréz called for public comment on the amendments to 1.13.30 NMAC, Disposition of Public Records and Non-Records. There were no comments.

Ms. Salazar asked if she could admit the attendance sheet as Exhibit O. The Chairman then asked if everyone had signed the attendance sheet. At this time, the chairman marked the attendance sheet as an exhibit entered into the record.

Chairman Tórréz stated that any rules adopted by the commission or the state records administrator would be filed in accordance with the State Rules Act and the *New Mexico Register* publication deadlines. Any rules not adopted may be postponed for future discussion at a specified time in the future or may be postponed indefinitely.

- B.** Chairman Tórréz thanked everyone for their participation and attendance. He adjourned the public rule hearing at 10:51 a.m.

IV. ACTION ITEMS

A. Vote on Proposed Rule

Chairman Tórréz called the regular meeting back into session to discuss and vote on the proposed rules. He asked Ms. Montoya to present 1.21.2 NMAC, Retention and Disposition of Public Records (CPR Rule). Ms. Montoya asked the commission to consider the amendment of 1.21.2 NMAC and read the following concise explanatory statement: Section 644 is being added to allow for the classification of attorney legal case files for cases which have been dismissed in court. A similar classification exists for use by the courts in the court admission category in section 616. This classification is being added for use by attorneys. This amendment has been reviewed by state records administrator and the SRCA internal review committee.

Chairman Tórréz asked if there were any questions or comments. Ms. Rhys asked if there were any comments regarding the amendment to 1.21.2 NMAC. Ms. Salazar answered that one comment was received from Elizabeth Travis, deputy general counsel with the Department of Transportation. Ms. Montoya offered that Ms. Travis was simply asking for clarification in the e-mail. Ms. Rhys then asked if a conclusion had been reached about whether the Public Defender and the Attorney General were under the executive to judicial branch. Ms. Salazar answered that both were under the executive branch and under the Public Records Act. She added that there is now the question as to whether the judicial branch is under the Public Records Act. Ms. Rhys indicated she would abstain from voting. Mr. Dworak asked if this applied to administrative hearings or only to court cases that are dismissed. Ms. Montoya answered that it does not have an impact on administrative hearings since they are separate items. Chairman Tórréz asked if there were any more questions or comments.

Chairman Tórréz entertained a **MOTION** to amend 1.21.2 NMAC, Retention and Disposition of Public Records (CPR Rule). Ms. Espinoza **MOVED**, and Ms. Shearer **SECONDED**; the motion **PASSED UNANIMOUSLY** with Ms. Rhys abstaining.

Chairman Tórréz proceeded to the proposed amendment of 1.13.10 NMAC, Records Storage and Access. Mr. Rodriguez read the following concise explanatory statement: Section 7 is being amended to reflect the correct reference citations due to an amendment on 11/28/2017 for designation of Records Management Personnel that resulted in the renumbering of the sections. The citations currently reference the incorrect section. The amendment will correct the numbering.

Ms. Salazar clarified that 1.13.10 is a state records administrator rule and would not require formal action by the commission. She explained that the rule hearing was held jointly with the state records administrator, and she would issue a decision. Chairman Tórréz and Dr. Pappas asked if any vote was needed or only concurrence. Ms. Salazar answered that concurrence would be appreciated. Chairman Tórréz stated let the record show that the commission acknowledges the corrections made by the state records administrator.

Chairman Tórréz then asked Mr. Rodriguez to present the amendment of 1.13.30 NMAC, Disposition of Public Records and Non-Records. Mr. Rodriguez read the following concise explanatory statement: Section 7 is being amended to reflect the correct reference citation due to an amendment on 11/28/2017 for designation of Records Management Personnel that resulted in the renumbering of sections. The citation currently references the incorrect section. This is clean-up work to identify the correct sections. The chairman asked if the commission must vote on this amendment since it is a joint rule. Ms. Salazar answered in the affirmative. The chairman asked if there were any questions or comments regarding the changes to this rule and there were none.

Chairman Tórréz entertained a **MOTION** to amend 1.13.30 NMAC, Disposition of Public Records and Non-Records. Mr. Pappas **MOVED**, and Ms. Rhys **SECONDED**; the motion **PASSED UNANIMOUSLY**.

B. Acceptance of Deeds of Gift

1. Jewish Federation of New Mexico Records

Ms. Lujan asked the commission to consider the *Jewish Federation of New Mexico Records* for inclusion into the permanent archives. The collection was donated by Dr. Sara Koplik. Dr. Koplik is the director of community outreach and the editor of *New*

Mexico Jewish Link, a publication produced in partnership with the University of New Mexico (UNM). Ms. Lujan stated the collection is 3 linear feet and includes: close to 50 years of history captured in the *New Mexico Jewish Link* (1971-2017); Jewish war veterans' history; information on local oral history projects; information on Ethiopian Jews which was included in Black History Month programming; articles on a Jewish film series and information on *Secret Things*, which is a Crypto-Jewish film taking a closer look at cinematography. Ms. Lujan offered that these types of donations allow the archives to document the unique cultural perspectives of the state. She stated the collection would be a great addition to the permanent holdings. She thanked UNM for taking the time to purchase supplies and to rehouse the materials before making the donation. Chairman Tórréz asked if the donation is different from the New Mexico Jewish Historical Society materials. Ms. Lujan answered yes. The chairman asked if there were any questions or comments. There were none.

Chairman Tórréz entertained a **MOTION** to accept the deed of gift for the *Jewish Federation of New Mexico Records*. Mr. Pappas **MOVED**, and Ms. Shearer **SECONDED**; and the motion **PASSED UNANIMOUSLY**.

2. **John C. Scott Collection of Historical Publications**

Ms. Lujan asked the commission to consider the *John C. Scott Collection of Historical Publications* for inclusion into the permanent archives. She added that the collection captures 100 years of history and is comprised of historical publications from 1890 to 1990. The size of this collection is 2 linear feet. Ms. Lujan stated the collection includes an 1890 account from Socorro, New Mexico of the proceedings of the 7th and 8th Annual Encampments of the Grand Army of the Republic. According to Ms. Lujan, the Grand Army reached its largest enrollment in 1890, with close to 500,000 members. The organization held an annual "National Encampment" from 1866 to 1949. When the American Civil War ended, several state and local organizations formulated to allow veterans to stay connected. These groups joined together for friendships and eventually stayed connected to develop political power. Ms. Lujan stated that the Grand Army is considered to be one of the most influential groups among the various organizations formulated during that time. She added that the United States Code covers these "national encampments of veterans' organizations" and that includes documenting the proceedings of these encampments, which are printed annually for Congress.

Ms. Lujan reported that the collection also includes the educational addresses of Dr. Frank Springer from the 1920s. She offered that Dr. Springer was involved in legal, literary, and scientific work as a citizen of New Mexico. He was also involved with New Mexico land grants and worked closely with the New Mexico Normal School in Las Vegas, New Mexico. The school was established in 1893, becoming the New Mexico Normal University in 1902 and then later becoming New Mexico Highlands University in 1941. Dr. Springer delivered several political and educational addresses throughout his life.

Ms. Lujan shared that she discovered a quote in a 1956 publication titled *Albuquerque's 250th Anniversary: The Picture Story*. The quote highlighted the importance of both records centers and archival institutions and reads: "The memory of man is short, and the thousand and one details of Albuquerque's great 250th Anniversary Celebration would fade into the mists of time without a permanent record of the event." Ms. Lujan stated that these publications would be of use to academics, authors, historians, and genealogists who actively seek out records to augment their research.

Dr. Pappas asked for more information about the donor John C. Scott. Ms. Lujan answered that he had inherited the material from his father. Ms. Lujan also answered questions about the performance measures and stressed the importance of history and providing information to legislators to bring about more awareness. Chairman Tórréz asked if there were any questions or comments. There were none.

Chairman Tórréz entertained a **MOTION** to accept the deed of gift for the *John C. Scott Collection of Historical Publications*. Mr. Pappas **MOVED**; and Ms. Shearer **SECONDED**; the motion **PASSED UNANIMOUSLY**.

C. New Mexico Historical Records Advisory Board (NMHRAB) Appointment

Chairman Tórréz called Dr. Shumaker to speak about the appointment of Ryan Flahive to the NMHRAB. Dr. Shumaker explained that Mr. Flahive's term on the board had ended, but he agreed to serve another term if reappointed. Dr. Shumaker provided Mr. Flahive's biographical information: Mr. Flahive is an archivist at the Institute of American Indian Arts (IAIA) in Santa Fe, New Mexico. He serves as adjunct faculty for the IAIA museum studies department in archives studies and oral history. Born and raised on the high plains of northern Colorado, he earned a B.A. in history and anthropology from Lindenwood University and a graduate degree in history and museum education from the University of Missouri in Saint Louis. Since then, he has worked in museum education in Wyoming and in rare book librarianship in Arizona. He has been at IAIA since 2009. He is responsible for the historic record for the college and its museums, also teaching museum studies courses. He has been a valued member of the New Mexico Historical Advisory Board since 2014.

Dr. Shumaker answered questions relating to how long Mr. Flahive had served as a board member, stating he had already served 2 two-year terms.

Chairman Tórréz entertained a **MOTION** to approve the appointment of Mr. Flahive. Ms. Espinosa **MOVED**, and Ms. Rhys **SECONDED**; the motion **PASSED UNANIMOUSLY**.

D. Authorization to Select Historically Significant Records from the Destruction List.

Ms. Salazar requested authorization from the commission to amend 1.21.2 NMAC, Functional Records Retention Deposition Schedule and 1.13.30 NMAC, Dispositions of Public Records and Non-Records in May. The amendment would include language to authorize the state records administrator to select historically significant records from the destruction list and transfer them to the archives. Ms. Salazar explained there are times when records on the destruction list have historical value because of their relationship to a particular event despite their designated retention in the schedule. She described how past state records administrators reviewed storage tickets prior to destruction and in some rare instances identified records with historical value. These records were then transferred to the archives. Ms. Salazar stated the practice was never formalized in rule and wanted to do so now.

Ms. Salazar gave an example of a current situation in which records of the Secretary of State were on the annual destruction list. She explained that during the creation of the functional records retention and disposition schedule (FRRDS), the retention for campaign contributions reports had gone from permanent to 5 years. She also recalled that the retention for this classification had gone back and forth since at least the early 1990s. Ms. Salazar stated that based on her experience in the archives these records should be made permanent. She reiterated that she would like the state records administrator to have authority to pull records

from the destruction list for preservation if they are deemed to have historical value. She provided another example of a state records administrator pulling materials for inclusion in the archives, specifically Public Defender records that were related to the penitentiary riot. Ms. Salazar stated she would also like to incorporate language that was previously in the schedules but taken out when the FRRDS was established. This language included the phrase, “permanent, transfer to archives for review and final disposition.” She explained that without this phrase it made it difficult for archivists to process and cull material that should not have been transferred to the archives.

Dr. Pappas stated that retention is set by the commission and expressed his concern about granting independent authority to the state records administration without council from the state historian or members of the commission. Ms. Salazar suggested that any records pulled from the destruction list could be presented to the commission at a subsequent meeting. Dr. Pappas stated he would feel more comfortable if the state historian was consulted as well. Ms. Salazar also suggested that language be added in the schedule to inform agencies that records identified for destruction could be further reviewed for historical significance and presented to the commission for permanent retention. Ms. Shearer added that she believed the campaign contribution reports did have historical value and believed the retention should be changed.

Chairman Tórréz stated he saw two elements moving forward: one was to change the retention for this particular classification for consideration by the commission at the May meeting, and the second was related to the practice of identifying materials on the destruction list that may have historical value. To facilitate this process, Mr. Johnson suggested a three phase process: 1. notify agency heads that records are being reevaluated; 2. consult with the state historian regarding historical value; and 3. present joint findings to the commission for final approval. Ms. Salazar continued to answer questions from commissioners relating to Inspection of Public Records Act (IPRA) requests for these materials. Ms. Salazar stated that the agency’s general counsel was looking into whether the State Archives fell under IPRA. She continued that under previous Attorney General direction the State Archives did not fall under IPRA because it was a research facility similar to libraries and museums.

Chairman Tórréz entertained a **MOTION** to authorize the state records administrator to retain these particular records and to notify the Secretary of State that they are being retained on a temporary basis pending a decision by the commission. Dr. Pappas **MOVED**; and Ms. Shearer **SECONDED**; the motion **PASSED UNANIMOUSLY**.

V. OLD BUSINESS

A. FY19 Budget Appropriation Request Update

Ms. Rivera passed out spreadsheets of the FY18 and FY19 budgets. Mr. Rivera went over the revenues generated to date, which totaled \$106,000. He pointed out that the *New Mexico Register* had generated \$68,410, which is two thirds of the total revenue of the agency. He then went over the FY18 expenditures in the revolving fund which were higher than the revenues. Mr. Rivera stated the agency was spending much more than it was generating in this category. Dr. Pappas asked how the agency would reconcile the difference. Mr. Rivera explained that many of the agency’s operating expenses had been transferred to the revolving account, which was not meant to cover this type of expenses. Chairman Tórréz added that the revolving fund would eventually run out if more revenues were not generated. Mr. Rivera noted that the agency was generating more revenue now than in past years. Ms. Salazar stated that the agency was working to submit a budget adjustment request (BAR) to move funds out of the 200 category, utilizing vacancy savings, to purchase what was needed for the agency.

Mr. Rivera past out spreadsheets and provided the commissioners a copy of proposed House Bill 2, which included the agency's FY19 budget recommendation. He provided an overview of funds 179 and 371 and of each funding category. He explained that House Bill 2 included the LFC recommendation, which not only decreased the agency's operating budget by almost \$50,000.00 but moved nearly all of its operating costs to the revolving fund. Mr. Rivera stated the agency was given more budget authority in the 371 fund but that meant depleting the balance. Ms. Chavez further explained that the fund balance would be depleted if expenditures continued to exceed revenues. Dr. Pappas stated the agency needed a general fund infusion in FY20 to compensate for the lack of fund balance. Ms. Salazar stated the agency would need some type of enterprise system to make more money. She offered that the commission may need to ask the Attorney General's Office for another opinion about charging for storage. She stated the question of charging for storage had come up before but past readings of the statute indicated the agency is simply required to provide that service. Mr. Wayne suggested that it may be possible to charge for services, but it may take two years for the change to take place if it were approved. Melissa explained some of the ways the agency is already charging for some service. Mr. Rivera and Ms. Chavez stated that a BAR would also be submitted at the beginning of FY19 to move funds from the 200 category to pay for some of the agency's operating costs. Ms. Salazar also informed the commission that the infrastructure capital improvement plan request was unsuccessful.

B. State Personnel Tenancy and Southwest Room Move

Ms. Salazar reported that the General Services Department (GSD) had responded to questions and comments that agency staff put forth at the request of the commission. She provided copies of GSD's responses and reported that the SPO consolidation into the building was moving forward. She stated that GSD has already hired the architects at \$239,750 to come up with designs. She reported they had looked at the server room and stated 100 more lines were needed to accommodate all of the new tenants. GSD had initially stated 50-80 SPO employees would occupy the space. Ms. Salazar also reported the architects were also considering the genealogy room, which holds their microfilm and genealogy materials. She stated this was not in the original discussions held with GSD and SPO. Ms. Salazar indicated the move could happen as early as April of this year. She then asked Ms. Abbo if she had any additional information with regard to the move. Ms. Abbo indicated that she had been out of the office and had no additional information.

Chairman Tórréz informed the commission that he had met with Ms. Salazar and the agency's management team regarding the SPO tenancy. He also informed that inquiries from the public had been coming in about the proposed move. He stated that the public needed answers and a response was being formulated to provide them details regarding the proposed SPO occupancy and how it would affect the agency and its services. He reported the information would go out under his authority and that of Ms. Salazar in the next few weeks. Ms. Salazar provided the commission with a short history of the agency's plans to expand and renovate, beginning with the 1995 original drawings which already planned for an expansion in 20 years. She provided details on each of the expansion and renovation requests and the monies already spent on studies and drawings. Chairman Tórréz thanked her for the information.

VI. DIRECTOR'S REPORT

Ms. Salazar reported the agency had 8 vacancies out of 37 positions, placing the vacancy rate at 21.6 percent. She provided a list of all the vacant positions. She reported on the remaining FY18 budget. As of February 2, 2018, the general fund balance in the 400 category was \$11,030.00;

